Remarks

The Office Action dated August 8, 2008 notes an objection to claims 1 and 3 due to informalities and the following rejections: claims 1 and 3 stand rejected under 35 U.S.C. § 103(a) over the Schneider reference (U.S. Patent No. 6,377,633) in view of the King reference (U.S. Patent No. 6,657,488); claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) over the Nagaraj reference (U.S. Patent No. 6,041,084); and claim 6 stands rejected under 35 U.S.C. § 103(a) over Nagaraj in view of the Bradbeer reference (U.S. Patent No. 5,130,543). In addition, the Office Action notes that claims 2, 7 and 10-14 are allowed (as corrected per Para. 6), and that claims 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten. Applicant traverses all of the rejections and, unless explicitly stated by the Applicant, does not acquiesce to any objection, rejection or averment made in the Office Action.

Applicant respectfully traverses the § 103(a) rejection of claims 1 and 3 because the cited portions of the Schneider reference do not correspond to the claimed invention which includes, for example, aspects directed to measuring noise levels of a binary signal and adjusting the slice level based on the measured noise levels. For example, with reference to a receiver noise floor (32 of Fig. 3 of Schneider), the Office Action erroneously asserts that the cited portions of Schneider teach measuring noise levels of the high and low levels of a binary signal. Instead Schneider measures and stores the negative and positive peak signal values of the binary signal (*see, e.g.,* Col. 7:35-47) and uses these values to set the reference level (*e.g.,* 34 in Figure 3) to be midway between the stored peak values (*see, e.g.,* Col. 7:8-14). Schneider simply measures the peak values of the binary signal and adjusts the reference level accordingly. The cited portions of Schneider do not mention measuring the noise levels of the negative and positive portions of the binary signal and then adjusting the slice level based on these noise levels as in the claimed invention. Even when attempting to modify the cited portions of Schneider with the cited teachings of King, only the noise levels of the positive portions of the binary signal would be measured as the cited portions of King teach away from measuring the very small noise levels associated with the negative portions of the binary signal (compared to Applicant's specification at Para. 0013 ("the advantage that it can detect very small noise peaks … which prior art noise detectors often fail to detect.")). Claims 1 and 3 have been amended to more clearly set forth these aspects.

Accordingly, the § 103(a) rejection of claims 1 and 3 is improper and Applicant requests that it be withdrawn.

Applicant respectfully submits that the § 103(a) rejection of claims 4-6 cannot stand because the cited portions of the reference(s) do not correspond to the claimed invention. These distinctions have largely been addressed in the underlying response which arguments are maintained herein. Further, in connection with the above amendments, the cited portions of the reference(s) do not teach the lower portion of claim 4.

Claim 8 has been amended, to include all the underlying limitations, as suggested in the Office Action.

In view of the remarks above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Aaron Waxler, of NXP Corporation at (408) 474-9063.

Please direct all correspondence to:

Corporate Patent Counsel
NXP Intellectual Property & Standards
1109 McKay Drive; Mail Stop SJ41
San Jose, CA 95131

By: _____
Name: Robert J. Crawford
Reg. No.: 32,122
(NXPS.480PA)

CUSTOMER NO. 65913